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In the High Court of Judicature at Madras

Dated:18.04.2006

Coram:

The Hon'ble Mr. Justice P. SATHASIVAM
and
The Hon'ble Mr. Justice J.A.K. SAMPATHKUMAR

Habeas Corpus Petition No.88 of 2006

S. Chinthamani .. Petitioner

vs.

1. The Secretary to Government
   Prohibition & Excise Department
   Fort St. George
   Chennai 600 009.

2. The Commissioner of Police
   Office of the Commissioner of Police
   Coimbatore City. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of writ of habeas corpus directing the respondents to call for the records and quash the order passed by the second respondent in C.No.23/G/ZS/2005 dated 29.8.2005 and consequently direct the respondent herein to produce the body of the detenue viz. Selvaraj @ Selvan @ Thondamuthur Selvaraj before this Court and release him from Central Prison, Coimbatore and set him at liberty.

For petitioner : Mr. N. Edwin Jeyakumar

For respondents : Mr. Abudukumar Rajarathinam
Govt., Advocate (Crl.)

ORDER

(Order of the Court was made by P. SATHASIVAM,J.,)

The petitioner by name S. Chinthamani, challenges the impugned order of detention dated 29.08.2005, detaining her husband Selvaraj @ Selvan @ Thondamuthur Selvaraj, as "Goonda" under Section 3 (1) of the Tamil Nadu Prevention of Dangerous Activities

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of Bootleggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1982 (in short "Tamil Nadu Act 14 of 1982").

2. Heard both sides.

3. Even at the foremost the learned counsel for the petitioner submitted that there was inordinate delay in considering the representation of the detenu, which vitiates the ultimate order of detention. With reference to the said claim the learned Government Advocate has placed details, which show that the representation of the detenue dated Nil was received by the Government on 15.09.2005 and remarks were called on 16.09.2005, reminder was sent on 26.09.2005, remarks were received on the same day, i.e., 26.09.2005. After receipt of the remarks, the file was submitted on 27.09.2005 and the same was dealt with by the Under Secretary and the Deputy Secretary on the same day itself; order was passed by the Minister for Prohibition and Excise on 28.09.2005, rejection letter was prepared on 05.10.2005; the same was sent to the detenu on 06.10.2005 and the rejection letter was served on the detenu on 08.10.2005. As rightly pointed out though the concerned Minister has passed an order on 28.09.2005, there is no explanation or reason for not forwarding the same to the detenu till 08.10.2005. In the absence of any explanation, we hold that the delay between 28.09.2005 and 08.10.2005 is enormous. On this ground, the impugned detention order is vitiated and the same is quashed; accordingly, this petition is allowed. The order of detention impugned in the petition is set aside and the detenu is directed to be set at liberty forthwith from the custody unless he is required in connection with any other case.

Kh

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary to Government
   Prohibition & Excise Department
   Government of Tamil Nadu
   Fort St. George
   Chennai 600 009.

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2. The Commissioner of Police
   Office of the Commissioner of Police
   Coimbatore City.

3. The Superintendent
   Central Prison, Coimbatore.

4. The Public Prosecutor
   High Court, Madras.

5. The Joint Secretary to Government,
   Public (Law and Order) Department,
   Fort St. George, Chennai-9.

1 cc to Mr.N.Edwin Jeyakumar, Advocate, SR.1914

sgl (co)

dv/3.5.06

Order in
H.C.P.No.88 of 2006

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